

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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:  
CALEB S. HERNANDEZ, :  
:  
Plaintiff, :  
: 22-CV-6964 (VSB)  
-against- :  
: **ORDER**  
:  
LARRY MILLER, et al., :  
:  
Defendants. :  
:  
-----X

VERNON S. BRODERICK, United States District Judge:

Plaintiff Caleb Hernandez moves for partial summary judgment, (Doc. 68) and for a settlement conference, (Doc. 72.) Defendants Larry Miller and Eric Eisbrenner request that the motion for summary judgment be stayed pending the resolution of their motions to dismiss and Plaintiff's motion for leave file a second amended complaint. (Doc. 74.) They also oppose a settlement conference. (Doc. 76.)

While “a party may file a motion for summary judgment at any time until 30 days after the close of all discovery,” Fed. R. Civ. P. 56(b), “courts routinely deny motions for summary judgment as premature when discovery over relevant matters [are] incomplete . . . .” *Doe v. Trustees of Columbia Univ. in City of New York*, No. 21 CV 05839 (ER), 2021 WL 4267638, at \*1 (S.D.N.Y. Sept. 16, 2021). Plaintiff has a pending motion to file a second amended complaint that is not fully briefed, (Doc. 65), and Defendants have motions to dismiss that are either pending or where briefing has been stayed, (Docs. 3, 16, 45).

It is premature to brief a motion for summary judgment when I have not even determined which complaint is the operative pleading, and where motions to dismiss are pending.

Accordingly, Plaintiff's motion for summary judgment is DENIED as premature. Defendants' motion for a stay is therefore moot. Given the posture of the case and Defendants' opposition, a settlement conference would be unproductive at this time. Plaintiff's motion for a settlement conference is therefore also DENIED.

The Clerk of Court is respectfully directed to terminate the motions at Docs. 68, 72, and 74.

SO ORDERED.

Dated: November 17, 2022  
New York, New York



Vernon S. Broderick  
Vernon S. Broderick  
United States District Judge